

Understanding Reasonable Assurance

**Presented by
Unemployment Insurance Technical
Subcommittee**

Section 1253.3

The California Unemployment Insurance Code states benefits are not payable if an individual:

- Has **school wages in the base period.**
- Is filing during a **school recess period.**
- **Has reasonable assurance** to work for a school employer at the end of a school recess, vacation, or holiday period.

Recess Period

- Any week that begins between two successive years or terms.
- Any scheduled break “within a term,” such as winter, spring, or Thanksgiving holiday break.
- If the claimant works for **more than one** school employer, the recess period for each of the employers must be considered.

Reasonable Assurance (RA)

A written, oral, or implied agreement that the school employee will perform same or similar services (e.g., same capacity) during the next academic year, term, or remainder of a term.

An employee with RA who has school and non-school wages in the base period may be eligible to draw benefits during a recess, but only against their non-school wages.

Professional vs. Nonprofessional

- For Unemployment Insurance (UI) purposes, the Employment Development Department (EDD) does not refer to school employees as classified or certificated.
- School employees are referred to as either professional or nonprofessional.
- These terms are written in federal and state UI law.

Professional Employees

Professional employees are:

- Instructors
- Researchers
- Employees who work in an administrative capacity:
 - Principal
 - Vice Principal
 - Head Counselor

Nonprofessional Employees

Nonprofessional school employees are:

Any school employees who do not teach, conduct research, or work in an administrative capacity.

Counselor, Librarian, Nurse

- Nurses, counselors, and librarians are professional employees in the business world but for **UI purposes**, they may be nonprofessional school employees.
- Depends on whether they teach, perform research, or work in an administrative capacity.

Notification to Nonprofessional Employees with RA

RA letter **must** be issued 30 days **prior** to the end of term and **must** state the following:

- Employee has an RA.
- Employee may file a UI claim.
- The EDD determines eligibility.
- Potential rights to retroactive benefits.

Notification to Nonprofessional Employees without RA

The RA letter **must** be issued 30 days **prior** to the end of term and **must** state the following:

- Employee **DOES NOT** have an RA.
- Employee **SHOULD** file a UI claim.

RA Must Be Communicated in an Explicit Manner

- Have employee sign receipt of RA letter, or
- Mail the RA letter (include name and address on letter).
- Keep a copy of the RA letter in file.

RA Notification Is Not Required for:

- Instructional – Teachers
- Researchers
- Principal administrative positions

Substitute Teachers

Should get an RA letter stating:

- They have RA of returning to work in the next year or term.
- They have RA at the close of all holiday and recess periods during the year.
- Their services will not be needed during any scheduled recess. (Precedent Benefit [PB] Decision 505)

Reduce Liability for Substitutes

- Create a separate and reduced substitute list for recess periods.
- If on-call during summer school, protest the recess periods before and after summer school.

Newly-Hired Employees

At the time of hire, districts should issue RA letters to **nonprofessional employees** (including nonprofessional substitutes) and **substitute teachers** to cover all recess breaks in the current school year.

Year-Round Schools

- RA becomes an issue:
 - When the employee's track is in recess.
 - When all tracks are in recess.
- RA is not an issue if an employee is on-call with any track in session.

Furloughs

- RA becomes an issue if furlough days result in a full week off work.
- During the first year of furlough, the employees will likely be eligible for RA (due to loss of customarily scheduled work).

Employees Are Eligible

RA does not exist:

- If an offer of work is contingent on enrollment, funding, or program changes.

Same Capacity

RA does not exist:

- If an employee working in one capacity (e.g., a nonprofessional) receives assurance of employment in the second year in another capacity (e.g., a professional).

Economic Terms and Conditions

RA does not exist:

- If the employees' work hours or pay are substantially reduced (e.g., 20 percent or more).

(After the first year, the reduction becomes the standard of employment.)

Loss of Customary Work

RA does not exist:

- If the employees' work year is reduced (e.g., 12 months to 10 months).

(After the first year, the reduction becomes the standard of employment.)

Summer School Cancellation

If summer school is canceled, an employee who was scheduled to work should be **eligible** for the period of the canceled summer school.

This employee should be **ineligible** for the recess periods before and after the canceled summer session if he or she has reasonable assurance to return in the fall.

Offers of Work Extended During Summer

- If same or similar work is offered, RA should begin the week following the date the offer was received.
(Document the date of offer – PB Decision 504.)
- If an employee accepts or declines a summer school assignment, notify the EDD.
- If a substitute is on-call during recess, report dates worked as well as refusals and dates of unavailability.

To Protest RA, Include:

- Name and title.
- Last day worked.
- Dates of recess period.
- Whether claimant has RA to return to the same capacity after recess.
- Date letter was sent.
- Claimant is not on-call during recess (**if** on-call, specify dates).
- Statement that employment is not contingent on enrollment, funding, or program changes.

Review the EDD Decisions

- Disqualification should **start** the first Sunday that **begins** in a recess break and **end** the Saturday following the last day of the recess break.
- If claim filed after recess began, disqualification should begin the Sunday the claim was filed.
- If scheduled to work during summer school, claimant should be disqualified for the recess periods **before and after** the summer school session.

Take the RA Quiz

1. Does a permanent teacher need an RA letter?
2. Can a substitute collect UI benefits during the summer if they were given RA?
3. If an employee is hired after the RA letters were issued, should one be provided at the time of hire?

RA Quiz (Continued)


4. A part-time employee is going to have his hours reduced from five hours to three hours in the next school year. Does he have RA?
5. A substitute with RA was on-call to work during summer school but was never called. Does he have RA?

RA Quiz (Continued)

6. A district sends an RA letter on June 1 and school ends on June 11. Does the employee have RA?
7. An employee is reduced from an 11-month to a 10-month employee. Does the employee have RA?

Questions and Answers





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